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matter, however, the holding that the deprivation of this liberty is without due process of law, is more objectionable. For due process of law two elements are necessary: a legal mode of procedure, and a legal purpose. A law which, as in this case, is to be enforced by the courts, and which is passed in due form by the legislature is undoubtedly one mode by which a citizen may be legally deprived of his liberty. Providing a law is passed to promote the health, comfort, safety, or welfare of society, and violates no other provision of the constitution, its purpose is one which will justify such a deprivation. Of course the act must in a fair and reasonable sense advance some of these objects. A causeless arbitrary deprivation will be declared unconstitutional, for it was to prevent exactly this kind of deprivation that the clause was inserted in the amendment.

The court in the principal case admit the law to be as has been stated, and rest their decision on the ground that there is no connection between the act in question and the public welfare. Yet in the dissenting opinions it appears that the act was designed to check certain real evils,—the sale of stolen tickets, counterfeit tickets, or tickets altered in date, destination, or apparent transferability. To this end the act limited the right to sell to persons for whose actions the transportation companies would be responsible. Can it be said the remedy had no connection with the evil? It was also intended to prevent the violation of pooling contracts by the underhand sale of cut rate tickets. Accomplishment of these objects would certainly conduce to the general welfare, and it is hard to agree with the court that the act in no way tends to accomplish them.

THE BREACH OF BLOCKADE.—What acts constitute a breach of a blockade is always a perplexing question. During the late blockade of the Cuban ports the steamship "Newfoundland" was brought to by one of the blockading fleet ten miles to the northeast of Havana, and was formally warned away. Four hours afterward she was captured seventeen miles to the northwest of Havana. She could give no satisfactory account of her presence in the first instance, or of her subsequent delay before the port. Accordingly she was condemned by the district court upon the ground that she was loitering upon the high seas near a blockaded port with intent to enter if opportunity offered, and that this action was a breach of the blockade. *The Newfoundland*, 89 Fed. Rep. 99, 510 (Dist. Ct., S. C.).

The decision of the prize court upon the preliminary question that the *locus* of the breach need not be within the territorial waters of the enemy, though contrary to the opinion of certain continental publicists, is incontrovertible. To render blockade effective the belligerent must be conceded a certain *dominium* over the waters about the place beset. Upon the main question the decision that this loitering constituted a breach of blockade also seems sound. Actual entrance into the port blockaded is indeed not requisite: an overt attempt to pass the cordon is clearly a breach. *The Neptune*, 2 C. Rob. Adm. 110. But other acts less unequivocal are held breaches of blockade, and within this category falls the principal case. Of these as a class Lord Stowell tentatively advanced the principle that a neutral ship cannot innocently be found in a situation where it may be possible to elude the blockading fleet with impunity; a presumption arises that she is there with intent to break the blockade. *The Neutralitet*, 6 C. Rob. Adm. 30. So, if a ship's course be laid so close to a blockaded

port that an opportunity to slip in might present itself, or if she approach a blockaded port to take a pilot for a neighboring port, or if she appear before a blockaded port for the alleged purpose of inquiry there is a breach of the blockade. *The Gute Erwartung*, 6 C. Rob. Adm. 182; *The Charlotta Christine*, 6 C. Rob. Adm. 101; *The Cheshire*, 3 Wall. 235. Thus the decision reached in the principal case, although the acts are extreme, is well founded upon authority. The position of the "Newfoundland" in loitering four night hours within ten miles of a blockaded port near enough to signal the shore and watch an opportunity to slip in was in itself an act of breach of the blockade and gave rise to a *prima facie* presumption of guilty intent. And as no innocent explanation of her acts was proved, the condemnation was entirely proper. If blockade is to be maintained to-day, the law must be stricter for a steamer than it was for the sailing ship in the past.

FORGED INDORSEMENTS OF NEGOTIABLE INSTRUMENTS. — A notable instance of the effect of equitable principles upon the law of negotiable instruments was the decision by Lord Mansfield in the case of *Price v. Neal*, 3 Burr, 1354. In that case the defendant was an indorsee of a bill for value in due course, and was without notice that the signature of the drawer was a forgery. In like ignorance the plaintiff, who was the drawee, paid the face value of the bill to the defendant. On learning the facts, he sought to recover back the amount paid by him. The court, in holding that no recovery could be had, said "there is no reason to throw off the loss from one innocent man upon another innocent man." Courts have almost universally supported the decision as well as the principle on which it rests, namely, that when two innocent parties have been thus defrauded, one will not be deprived of the legal title to the money which he has received in order that the other may be made whole. See the article by Professor Ames, 4 HARVARD LAW REVIEW, 297.

There is, however, a well recognized distinction between this and another class of cases, which is illustrated by a recent decision of the Supreme Court of Nebraska. *First Nat. Bank v. Farmers' & Merchants' Bank*, 76 N. W. Rep. 430. There a loan company was induced by the fraudulent representations of an agent to draw a check payable to a person who was in fact non existent. The agent received the check for delivery to the ostensible payee, but forged the name of the payee and made delivery to the defendant, who then collected the amount of the check from the bank on which it was drawn. The court held that the bank could recover back the amount, although the defendant paid value for the check and received it in good faith. Here the court was, as in *Price v. Neal*, *supra*, dealing with two innocent parties. Yet there is this difference. In this case the check remained the property of the drawer until delivery should be made by the agent to the person intended as payee; upon the transfer, therefore, to the defendant under the forged indorsement, the latter became liable to the true owner, the drawer, for a conversion of the check; however innocent, he was a wrongdoer. The money thereafter received by him in dealing with the property of the drawer was wrongfully gained, and he became a constructive trustee for the drawer. Now, if the drawer in this case had been an indorsee in due course and had been so deprived of his property, he could still have recovered against the drawee, since the fact that payment was made to the wrong person